

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MARTIN RACHILLA, JOSEPH E. CRAIG,
JR., JOHN R. WAHLER, RONALD L.
ROYER, DOROTHY GANTZ, CHARLES
CULLEY, DAVID MOORE,
INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE &
AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA-UAW,

Case Number 08-14771-BC
Honorable Thomas L. Ludington

Plaintiffs,

vs.

MACK TRUCKS, INC., MACK TRUCKS, INC.
RETIREE WELFARE BENEFIT PLAN,

Defendants.

**ORDER DENYING PLAINTIFFS' MOTION FOR LEAVE TO CONDUCT DISCOVERY
PRIOR TO RULE 26(F) CONFERENCE**

On November 12, 2008, Plaintiffs filed a complaint alleging claims under the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, and the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(1)(B). Plaintiffs seek damages and an injunction to recover benefits allegedly due and to remedy an alleged breach of fiduciary duty. On November 24, 2008, Plaintiffs filed a motion for a preliminary injunction [Dkt. # 9]. Meanwhile, on November 21, 2008, Defendants filed a motion to dismiss or to stay or transfer venue. Both motions are scheduled for hearing on February 4, 2009.

On December 22, 2008, Plaintiffs filed a motion for leave to conduct discovery prior to Rule 26(f) conference [Dkt # 28]. Defendants filed a response the same day. Under Federal Rule of Civil Procedure 26(d)(1), "[a] party may not seek discovery from any source before the parties have

conferred as required by Rule 26(f), except . . . when authorized by these rules, by stipulation, or by court order.” At this juncture, Plaintiffs seek a court order permitting them to engage in discovery prior to the hearing on their motion for a preliminary injunction. Plaintiffs characterize the discovery they seek as “basic bargaining history documents.” According to Plaintiffs, these documents would aid the Court in deciding their motion because the documents implicate Plaintiffs’ likelihood of success on the merits.

While Plaintiffs may be entitled to the discovery that they seek if the case proceeds on the merits, the discovery is not relevant to Defendants’ pending motion to dismiss or necessary to Plaintiffs’ motion for a preliminary injunction.

Accordingly, it is **ORDERED** that Plaintiffs’ motion for leave to conduct discovery prior to Rule 26(f) conference [Dkt # 28] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 12, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 12, 2009

s/Tracy A. Jacobs
TRACY A. JACOBS